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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,670	08/19/2003	Yoshimasa Hayama	H07-159418M/MNN	3516
21254	7590	03/27/2006	EXAMINER	
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			SNIDER, THERESA T	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,670

Applicant(s)

HAYAMA ET AL.

Examiner

Theresa T. Snider

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/19 & 12/29/03, 4/05</u> | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 1744

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "16"(page 12, line 2) and "16'"(page 11, line 19) have both been used to designate Projection/depression-shaped portions. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 102 (page 16, line 21) and 112 (page 18, line 9). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the

Art Unit: 1744

examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Figures 9-10 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: Page 16, line 20, '7' should be replaced with '107'.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 1744

Claim 5, line 2, 'the at least one of the accommodating portions' lacks proper antecedent basis. Should the claim be dependent from 4 rather than 1?

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 1744

9. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over The Admitted State of the Prior Art as set forth in figures 9-10 and pages 1-4 of the specification (hereafter ASPA) in view of Radabaugh et al..

ASPA discloses a similar dust collector however fails to disclose a remote control transmitter and receiver.

ASPA discloses a motor, drive unit and dust collection fan (page 1, lines 20-21).

ASPA discloses a head section (element at end of lead line for 4”).

ASPA discloses a switch on the head section (col. 2, lines 1-2).

ASPA discloses a tank section located below the head section (fig. 9, #3).

ASPA discloses a duct hose having one end connected to the tank section and the other end connected to a power tool (fig. 9, #3,7,6).

Radabaugh et al. discloses a dust collector having a remote control transmitter and a receiver (abstract). It would have been obvious to one of ordinary skill in the art to provide the remote controller transmitter and receiver in ASPA to allow for operation of the dust collector from a remote location, the site of the power tool.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over ASPA in view of Radabaugh et al. and Dekker et al.

ASPA in view of Radabaugh et al. discloses a similar collector however fails to disclose a changeover switch.

Dekker et al. discloses a dust collector with a remote control transmitter having a changeover switch (col. 4, lines 6-12). It would have been obvious to one of ordinary skill in the

Art Unit: 1744

art to provide the changeover switch of Dekker et al. in ASPA in view of Radabaugh et al. to allow an operator to have a choice between remote or not remote operation of the dust collector.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over ASPA in view of Radabaugh et al., WO99/09875 and Knoedler et al.

ASPA in view of Radabaugh et al. discloses a similar collector however fails to disclose a catching hook portion on the remote transmitter.

WO99/09875 discloses a dust collector having a remote control transmitter that is removable from its support (abstract). It would have been obvious to one of ordinary skill in the art to provide for a removable transmitter in ASPA in view of Radabaugh et al., as disclosed in WO99/09875, to allow operation in various locations.

Knoedler et al. discloses a remote unite having a catching hook with a u-shaped cross section (fig. 3, #66). It would have been obvious to one of ordinary skill in the art to provide the hook of Knoedler et al. in ASAP view of Radabaugh et al. and WO99/09875 to allow for attachment to one's person.

12. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over ASPA in view of Radabaugh et al. and Edwards et al..

ASPA in view of Radabaugh et al. discloses a similar collector however fails to disclose at least one accommodating portion.

Edwards et al. discloses an accommodating portion for remote control transmitter (fig. 2, #25). It would have been obvious to one of ordinary skill in the art to provide an

Art Unit: 1744

accommodating portion in ASPA in view of Radabaugh et al. to allow for storage of the transmitter to prevent misplacing of it. It would have been obvious to one of ordinary skill in the art to determine the most appropriate location for the accommodating portion in ASPA in view of Radabaugh et al. and Edwards et al. to allow for the greatest operator access with the least amount of interference with the dust collector components.

With respect to claim 5, it would have been obvious to one of ordinary skill in the art to determine the most appropriate accommodating and retaining portion structure in ASPA in view of Radabaugh et al. and Edwards et al. to allow for the most effective attachment to a structure while still allowing for an operator to easily remove the transmitter from the portion.

13. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over ASPA in view of Radabaugh et al. in view of Chen et al..

ASPA in view of Radabaugh et al. discloses a similar dust collector however fails to disclose a receiving antenna.

Chen et al. discloses a dust collector having a remote control receiver with an antenna (fig. 2, #30). It would have been obvious to one of ordinary skill in the art to provide the antenna of Chen et al. in ASPA in view of Radabaugh et al. to provide for a conventional means of receiving a signal from a transmitter.

With respect to claims 6-9, it would have been obvious to one of ordinary skill in the art to determine the most appropriate location to mount the antenna of ASPA in view of Radabaugh et al. and Chen et al. to allow for the least interference from the dust collector.

Art Unit: 1744

With respect to claim 10, it would have been obvious to one of ordinary skill in the art to determine the most conventional means to connect the antenna to the receiver in ASPA in view of Radabaugh et al. and Chen et al. to allow for the clearest signal.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kido discloses a dust collector for a power tool. Albright et al., WO97/47228 and Crljenjak et al. disclose the use of a remote switch for operating a dust collector for power tools. Fingal et al. discloses an accommodating portion for a remote control.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Thursday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/642,670

Page 9

Art Unit: 1744

Theresa T. Snider

Theresa T. Snider
Primary Examiner
Art Unit 1744

3/20/2006